

HB 5414

Testimony of Judge William G. Kelly
Judge, 62B District Court (Kentwood)
Co-Chair, Legislative Committee, Michigan District Judges Association

The Michigan District Judges Association (MDJA) strongly supports HB 5414. I have attached petitions signed by the board members of the MDJA. As the petition states, the DRF is unfair in many ways. The Driver Responsibility Fee (DRF) is a tax on the poorest people in our state, it is a second punishment for the same offense, it is very costly to local units of government, it is costly to collect, and it has nothing to do with traffic safety. If enacted, HB 5414 will have no effect on the revenue for FY 14-15. In the future, the loss of revenue from the DRF should be offset by a growth in the economy.

The District Judges have seen firsthand the heavy burden that the Driver Responsibility Fee (DRF) has had on the poorest people in the state. Every District Court judge in the state has seen people who owe more than \$5,000 in the DRF.

Some people drive to and from work without a license so that they can earn money to pay the DRF and then they receive another ticket for Driving While License Suspended and have to pay more DRFs. Without a valid license many people are unable to drive to and from work. They are not able to be employed and employers lose good employees.

Thousands of Michiganders have given up hope of ever obtaining a valid license. Without hope of obtaining a valid license, they continue to drive without a valid license which undermines the purpose of a drivers license and respect for the law.

Many of the people who appear before us are charged with Driving While License Suspended. Most of them have suspended licenses for failure to pay traffic tickets or a prior DRF. Yesterday, 12 people were scheduled to appear before the 62B District Court in Kentwood for Driving While License Suspended. Of those,

- 9 had their licenses suspended for failure to pay 13 tickets,
- 2 had their licenses suspended for failure to pay child support,
- 5 had their licenses suspended for 38 DRFs (one had 14 and another had 17),
- 1 had a license suspended for giving false information to a police officer,
- 1 had a license suspended for theft of motor fuel (he has 14 DRFs), and
- 1 had a revoked license (he had 17 of the DRFs).

I had another gentleman in court this week who owes \$1,700 in DRF. He and his wife are expecting their second child next month. He is working two jobs, as a maintenance man and as a security guard. He is facing charges of Driving While License Suspended. The city attorney has offered him a reduced charge if he can clear his license before the trial date of May 29. He is struggling to pay the DRF and also provide for his family.

People who are convicted of the traffic offenses subject to the DRF pay fines and costs which are proportionate to the offense committed. The judge can take into account various aggravating and mitigating factors and ability to pay. The DRF does not take these factors into account.

The DRF punishes people twice for the same offense. This is double jeopardy. If the DRF is removed, the courts will still be assessing penalties for the offenses, just as is done in 47 other states in the United States.

Many people plead not guilty to offenses hoping that they will be able to plead to an offense which carries a lesser DRF or no DRF. This is a burden on the local counties and cities who have to pay more for attorney fees and on the local courts.

Because of the enormous cost of the DRF, courts have more difficulty in collecting fines and costs. Many people are confused thinking that if they pay the DRF, they have satisfied the penalty for their offense and don't have to pay fines and costs to the court or vice-versa.

The Treasury Department spends a great deal of resources to collect the revenue from the DRF. Payment plans are established and re-established. The treasury department spends time receiving these partial payments. What other revenue source requires so much expense to collect? Much of the DRF which is assessed is not collected. Each year, thousands of Michiganders have their licenses suspended for failure to pay the DRF.

Traffic courts are not courts of revenue but rather revenue is a by-product of the traffic court system. The DRF tries to generate revenue out of traffic offenses and has nothing to do with safety. Traffic offenses are punished appropriately by judges in the courts. The people who have their licenses revoked (the worst drivers) are the ones who ignore the DRF the most. The driver I mentioned who had 17 DRF suspensions has a revoked license and the one with 14 DRF suspensions has a license suspended for one year for false information to a police officer. Even if they pay the DRF, they will not be able to get a license so they don't pay the DRF. As a result, the DRF is not a deterrent to the drivers who are the worst drivers. The ones who pay are generally people who are not bad drivers.

The revenue generated by the DRF comes from three sources: the first year assessment, the second year assessment, and collections from the more than \$500,000,000 in unpaid assessments from previous years. If enacted, in FY 14-15, revenue will be generated from all three sources. In FY 15-16 and FY 16-17, the revenue will be generated from two sources: the first year assessment and collections from unpaid assessments from previous years. The taxes generated by the growth in Michigan's economy over the next few years should replace any monies lost by the phasing out of the DRF. Even if the growth in the economy does not replace the money, the state should not rely any longer on the unconscionable DRF.

Testimony of Judge William C. Buhl

Retired Circuit Judge, 36th Circuit, Van Buren County, Michigan,

before the House Appropriations Committee on May 14, 2014

I served as Assistant Prosecuting Attorney for Van Buren County (1968), Prosecuting Attorney (1969-1974), District Judge of the 7th District Court (1974-1988) and Circuit Judge (1989-2010) until I retired at the end of 2010. I have opposed the Driver Responsibility Fee since its inception. I have joined Judge Kelly in giving testimony against it in the past, and I have read his testimony for today's hearing and I fully endorse everything he has included in his observations.

I would like to add a Circuit Judge's observations. In reviewing criminal histories of the felon defendants I sentenced, I was shocked to see that individuals with multiple convictions for driving while suspended received no jail time. This did not happen when I was a district judge. I discovered that district courts stopped viewing this crime as a crime, because driving while suspended has become an economic crime, not a crime involving a dangerous driver we should fear and lock up as a threat to our safety.

Let me give you the worst case example. I sentenced a twenty-six-year-old man who had **thirty-two** convictions for driving while suspended (a number of arrests for DWLS had also been dismissed). While on probation he acquired three more convictions. The district judge in each case gave him **no jail time!** In addition, his probation agent did not feel it important enough to bring it to my attention as a probation violation when he acquired three more!

If you do not receive jail for your thirty-fifth conviction for violating a misdemeanor statute, who does? Why has this happened? The Driver Responsibility Fee has destroyed the credibility of the motor vehicle code prohibition against driving with a suspended license.

This "double jeopardy" provision of the law, as Judge Kelly so accurately describes it, has made us all law breakers. A MSP Post Commander told me he stopped a driver who was suspended, and ended up letting him drive off, after hearing his story – a victim of the Fee.

Courts all over the State of Michigan are helping people avoid conviction for driving while suspended. Police officers are letting illegal drivers go, and multiple offenders are just paying fines. Dockets are clogged with DWLS cases.

When law enforcement routinely helps people avoid conviction for violating the law, then the law is an ass. This law needs to go, and the sooner, the better.

Michigan District Judges Association



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I wholeheartedly support HB 5414. The Driver Responsibility Fee has been a very heavy burden on the people who appear before the courts. Many of the people who are forced to pay the Driver Responsibility Fee are unable to do so because of a limited income. The Driver Responsibility Fee is unfair in many ways.

I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 12, 2014

A handwritten signature in black ink that reads "BA Oakley".

Judge Brian A. Oakley
District Court Judge,
34th District Court, Romulus
President,
Michigan District Judges Association



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Dated: May 13, 2014

A handwritten signature in black ink, appearing to read "Richard L. Hammer".

Judge Richard L. Hammer
District Court Judge,
21st District Court, Garden City
President-Elect,
Michigan District Judges Association



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Dated: May 13, 2014

A handwritten signature in black ink, reading "Katherine L. Hansen".

Judge Katherine L. Hansen
District Court Judge,
36th District Court, Detroit
Vice-President,
Michigan District Judges Association



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Dated: May/2, 2014

A handwritten signature in black ink, appearing to read "T. Boyd", written over a horizontal line.

Judge Thomas R. Boyd
District Court Judge,
55th District Court, Ingham County
Secretary,
Michigan District Judges Association



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Dated: May 12, 2014

A handwritten signature in dark ink, appearing to read "Hugh B. Clarke, Jr.", written over a horizontal line.

Judge Hugh B. Clarke, Jr.
District Court Judge,
54A District Court, Lansing
Treasurer,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014

Judge Theresa M. Brennan
District Court Judge,
53rd District Court, Livingston County
Program Co-chair,
Michigan District Judges Association



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Dated: May 13, 2014

A handwritten signature in black ink, appearing to read "William A. Baillargeon", written over a horizontal line.

Judge William A. Baillargeon
District Court Judge,
57th District Court, Allegan County
Program Co-Chair,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014

A handwritten signature in black ink, appearing to read "Beth A. Gibson", is written over a horizontal line.

Judge Beth A. Gibson
District Court Judge,
92nd District Court, Newberry
Legislative Co-chair,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014

A handwritten signature in dark ink, appearing to read "William G. Kelly".

Judge William G. Kelly
District Court Judge,
62B District Court, Kentwood
Legislative Committee Co-chair,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014

A handwritten signature in black ink, appearing to read "Michelle Friedman Appel".

Judge Michelle Friedman Appel
District Court Judge,
45B District Court, Oak Park
Chair, Rules Committee,
Michigan District Judges Association



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Dated: May 13, 2014

A handwritten signature in black ink, appearing to read "K. Wiegand".

Judge Kimberly A. Wiegand

District Court Judge,

41A District Court District Court,
Sterling Heights

Chair, Judicial Benefits Committee,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13 2014

A handwritten signature in black ink, appearing to read "Pablo Cortes".

Judge Pablo Cortes
District Court Judge,
62A District Court, Wyoming
Chair, Public Relations,
Michigan District Judges Association



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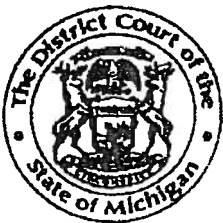
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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

A handwritten signature in black ink that reads "Dan Passenger".

Dated: May 3, 2014

Judge Donald Passenger
District Court Judge,
61st District Court, Grand Rapids
Co-Chair, Technology Committee,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014

Shelia R. Johnson

Judge Shelia R. Johnson
District Court Judge,
46th District Court, Southfield
Newsletter Editor,
Michigan District Judges Association



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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 12, 2014

A handwritten signature in black ink, appearing to read "J. Debbrecht Switalski", written over a horizontal line.

Judge Jodine Debbrecht Switalski
District Court Judge,
51st District Court, Waterford
Region I Representative,
Michigan District Judges Association



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Dated: May 13, 2014

A handwritten signature in cursive script that reads "Kirk W. Tabbey".

Judge Kirk W. Tabbey
District Court Judge,
14A District Court, Ypsilanti
Region II Representative,
Michigan District Judges Association



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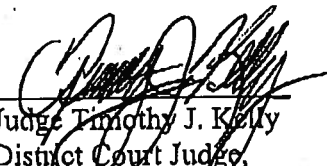
Hon. Theresa Brennan
Brighton

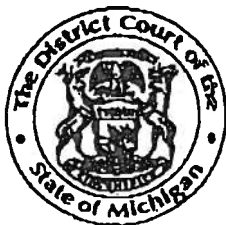
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I ask that the legislature phase out the Driver Responsibility Fee as soon as possible.

Dated: May 13, 2014


Judge Timothy J. Kelly
District Court Judge,
74th District Court, Bay City
Region III Representative,
Michigan District Judges Association



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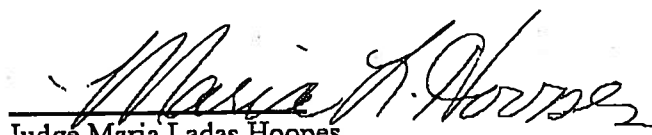
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Dated: May 12, 2014


Judge Maria Ladas Hoopes
District Court Judge,
60th District Court, Muskegon
Region V Representative,
Michigan District Judges Association

